

AMENDMENT
U.S. Appln. No. 09/823,458

REMARKS

By this amendment Applicant cancels claims claims 23, 25-29, 31-35 and 37 and adds new claims 38-50. Thus claims 38-50 are all the claims pending in the application. All previously pending claims stand rejected. Consideration and allowance of new claims 38-50 are respectfully requested in view of the remarks the follow.

CLAIM REJECTIONS

35 U.S.C. § 102

Claims 23, 25-26, 28-29, 33-35 and 37 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent 6,353,398 to Amin et al (hereinafter "Amin"). Applicant respectfully traverses this rejection as applied to new claims 38-50 for the reasons below.

Amin fails to teach or suggest *user specified price criteria being sent from a portable communication device* as recited in Applicant's independent claims. The Office Action cites col. 4, ll. 29-50 of Amin as disclosing this subject matter. However, the only remotely related disclosure of subject matter by Amin pertains to demographic information of income level which is ascertained by a user vehicle type. Because Amin fails to teach or suggest at least *user specified price criteria being sent from a portable communication device*, Amin cannot anticipate any of Applicant's claims.

35 U.S.C. § 103

Claims 27 and 31 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Amin in view of previously cited U.S. Patent 6,397,04 to Titmuss et al. (hereinafter "Titmuss"). Applicant respectfully traverses this rejection as applied to new claims 38-50 for the following reasons.

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Titmuss was cited by the Office Action to teach a location input into a portable device by a user. The Office Action alleges it would be obvious to combine the technique disclosed by Titmuss with system disclosed by Amin 'because it would provide up to date information as desired.' (1/12/06 Office Action pg. 5).

Applicant respectfully submits that since Amin discloses the use of GPS system to track a mobile user's location, it already 'provides up to date information [regarding the location of a user] as desired. Accordingly there is no proper motivation for combining the references as suggested in the Office Action.

Moreover, as explained in Applicant's previous response of 10/24/2005, Titmuss does not in fact disclose or suggest identifying a reference location via a location input into the portable device by the user and no evidence to the contrary has been asserted which would support this Office Action allegation.

Lastly, Titmuss also fails to teach or suggest using price criteria specified by a user of the portable communication device. Because Amin and Titmuss, taken alone or in combination fail to teach or suggest this feature of Applicant's independent claims, *prima facie* obviousness is not established with respect to any of Applicant's claims. Accordingly, a 103 rejection of Applicant's new claims 38-50 in view of these references alone would be improper.

CONCLUSION

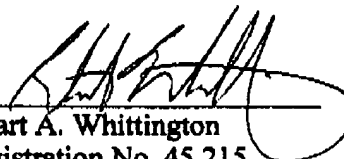
In view of the foregoing allowance of this application is believed to be in order, and such action is hereby solicited. If any issues arise which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

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Applicant hereby petitions for any extension of time which may be required to maintain the pendency of this case, and any required fee or deficiency thereof, except for the Issue Fee, is to be charged to **Deposit Account # 50-0221**.

Respectfully submitted,


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c/o

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